

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

GUSTAVO ROJO-MELENDEZ,

Defendant.

Case No. CR08-159-JLR

**PROPOSED FINDINGS OF FACT
AND DETERMINATION AS TO
ALLEGED VIOLATIONS OF
SUPERVISED RELEASE**

INTRODUCTION

I conducted a hearing on alleged violations of supervised release in this case on January 4, 2013. The defendant appeared pursuant to summons issued in this case. The United States was represented by Mark Parrant, and defendant was represented by Scott Engelhard. Also present was U.S. Probation Officer Carol A. Chavez. The proceedings were digitally recorded.

SENTENCE AND PRIOR ACTION

Defendant was originally sentenced on December 15, 2008, by the Honorable James L. Robart for Possession with Intent to Distribute Cocaine. He received 19 months custody and 3 years of supervised release.

On July 18, 2011, the Court revoked defendant's term of supervised release and imposed two months custody along with a new two year term of supervised release which included

1 participation in a halfway house for up to 120 days. The revocation occurred after Mr. Rojo-
2 Melendrez admitted to violating the terms and conditions of his supervision. Specifically, he
3 violated by using marijuana, using cocaine, and for failing to pay towards his \$100 special
4 assessment. Defendant was released from custody on August 19, 2011, and his new term of
5 supervised release commenced. Mr. Rojo-Melendrez entered the halfway house in Tacoma, WA
6 the same date he released.

7 On December 14, 2011, the Court again revoked Mr. Rojo-Melendrez's term of supervised
8 release after he admitted to committing a new law violation, associating with persons engaged in
9 criminal activity, and for failing to notify his probation officer of having law enforcement
10 contact. The defendant was sentenced to 120 days custody and a new 24 month term of
11 supervised release. Mr. Rojo-Melendrez was released from custody on February 14, 2012, and
12 his current term is scheduled to expire on February 14, 2014.

13 PRESENTLY ALLEGED VIOLATIONS

14 In a petition dated December 6, 2012, U.S. Probation Officer Carol A. Chavez alleged that
15 defendant violated the following conditions of supervised release:

- 16 1. Using cocaine on or about April 28, 2012, in violation of the mandatory condition
17 and standard condition number 7.
- 18 2. Using synthetic marijuana or "spice" on or about September 28, 2012, in violation of
19 the mandatory condition and standard condition number 7.
- 20 3. Failure to participate in drug treatment in August and September 2012, in violation
21 of the special condition.

22 FINDINGS FOLLOWING EVIDENTIARY HEARING

23 Defendant admitted the above violations, waived any hearing as to whether they occurred,

1 and was informed the matter would be set for a disposition hearing January 29, 2013, at 10:00
2 a.m. before District Judge James L. Robart.

3 **RECOMMENDED FINDINGS AND CONCLUSIONS**

4 Based upon the foregoing, I recommend the court find that defendant has violated the
5 conditions of his supervised release as alleged above, and conduct a disposition hearing.

6 DATED this 4th day of January, 2013.

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BRIAN A. TSUCHIDA
10 United States Magistrate Judge
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